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December 17, 2020

**PLAINTIFF'S LETTER MOTION FOR LEAVE TO FILE MOTION FOR DISCOVERY
SANCTIONS**

Via ECF

The Honorable Robert W. Lehrburger
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Aquavit Pharmaceuticals, Inc. v. U-Bio Med, *et al.*, No. 19-CV-
3351-VEC-RWL (S.D.N.Y.)

Dear Judge Lehrburger:

On December 7, 2020, the Court ordered Defendants to fully comply with Plaintiff's sanctions-related discovery demands no later than December 16, 2020 and that failure to do so will result in discovery sanctions, including preclusion of any later admission of such material offered by Defendants, and the drawing of inferences adverse to Defendants on the subject matter of that discovery. *See* Dkt. 203.

Defendants have not abided by this latest Court order. On December 16, 2020, Defendants sent to Plaintiff written responses and objections to Plaintiff's interrogatories and document requests. However, Defendants did not include production of any documents on December 16, 2020, stating that the document production was still processing.

Plaintiff also objects to Defendant's statement in its responses to interrogatories that UBM elects under Fed. R. Civ. P. 33(d) to produce its business records in response to many of the interrogatories, without specifying the records that must be reviewed, in sufficient detail to enable Plaintiff to locate and identify them as readily as the Defendants could.

Accordingly, Plaintiff seeks leave to file a motion for discovery sanctions against Defendants, including preclusion of any material provided after December 16, 2020 offered by Defendants, and the drawing of inferences adverse to Defendants on the subject matter of that discovery. If appropriate, such motion can be included in the upcoming briefing on sanctions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'D. Nevriy', with a stylized flourish at the end.

Daniel J. Nevriy

cc: Thomas J. Vetter (via ECF)